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8 Attorneys for Defendant and Counterclaimant  
9 K.O.O. CONSTRUCTION, INC.

10  
11 UNITED STATES DISTRICT COURT  
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
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14 UNITED STATES OF AMERICA  
15 FOR USE AND BENEFIT OF  
16 HUDSON P. DAVIS, INC. d/b/a  
17 DAVIS MECHANICAL, a California  
18 corporation,

19 Plaintiff,

20 vs.

21 K.O.O. CONSTRUCTION INC., a  
22 California corporation; TRAVELERS  
23 CASUALTY AND SURETY  
24 COMPANY OF AMERICA; and  
25 DOES 1 through 20, inclusive,

26 Defendants.

27 K.O.O. CONSTRUCTION, INC., a  
28 California corporation;

Counterclaimant,

v.

HUDSON P. DAVIS, INC. d/b/a  
DAVIS MECHANICAL, a California  
corporation and ROES 1-10, inclusive,

Counterdefendants.

Case No. 3:15-cv-02869-W-DHB

**DECLARATION OF PATRICIA A.  
MEAGHER IN SUPPORT OF  
MOTION TO WITHDRAW AS  
COUNSEL OF RECORD**

**Date:** May 23, 2016  
**Dept:** Courtroom 3C

**NO ORAL ARGUMENT  
(Civil Local Rule 7.1.d.1)**

1 I, Patricia A. Meagher, declare as follows:

2 1. I am an attorney at law duly licensed to practice in the State of California and  
3 before the United States District Court for the Southern District of California. My law firm  
4 and I are counsel of record for KOO Construction, Inc. ("KOO") in this matter. I am familiar  
5 with the facts and pleadings herein. The following is within my personal knowledge and if  
6 called and sworn as a witness, I could and would competently testify thereto.

7 2. I am mindful of my ethical obligations to protect the attorney-client privileges  
8 as well my client's confidential information. I am therefore limited in how much factual  
9 details I can provide to the court.

10 3. This action was filed on December 18, 2015. Defendant KOO was served on  
11 December 28, 2015.

12 4. On February 29, 2016, I forwarded to KOO a representation agreement for this  
13 matter. Despite several attempts, KOO has neither executed the representation agreement nor  
14 provided the requested retainer.

15 5. On behalf of KOO, I prepared and filed an answer to the complaint and a  
16 counterclaim. I also prepared a confidential Early Neutral Evaluation statement and traveled  
17 from San Francisco to San Diego to appear at the Early Neutral Evaluation conference on  
18 February 26, 2016. In addition, I prepared and served on March 25, 2016 KOO's Rule 26  
19 Initial Disclosures. The initial disclosures exchanges by the parties establish that this case  
20 will require the production of extensive documentation, the depositions of numerous  
21 witnesses, and the retention of one or more experts, at a significant cost.

22 6. KOO has not paid RJO monthly billing statements for fees and costs incurred  
23 in this matter, and has ignored several requests for payment. On March 29, 2016, I notified  
24 Keith Odister, Chief Executive Officer of KOO, by email that I would need to withdraw from  
25 representation of KOO. No response was received.

26 7. On April 6, 2016, I sent a letter to Mr. Odister by Certified Mail again  
27 notifying him that, because KOO has not paid our billing statements, I will need to withdraw  
28

1 as counsel. I also notified him that, I will need to notify the court of what is happening  
2 during the April 15, 2016 Case Management Conference. KOO has not responded.

3 8. Other recent developments have made clear that, as a result of KOO's conduct,  
4 there is now an irretrievable breakdown of the attorney-client relationship which will prevent  
5 me from providing effective representation. I cannot provide more detail without violating  
6 my ethical duties to the client.

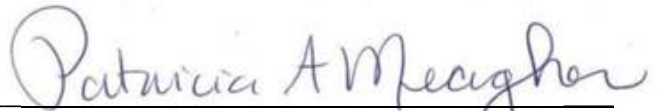
7 9. My office is serving a copy of this motion and supporting papers on KOO on  
8 April 12, 2016 by email and Federal Express to the attention of Mr. Keith Odister.

9 10. This matter has been pending for approximately three months. I believe there  
10 is plenty of time for other counsel to be retained by KOO to represent it in this matter.

11 11. I have informed KOO that I will cooperate in the transition to new counsel.  
12 Therefore, I do not believe that KOO will suffer any prejudice should I be allowed to  
13 withdraw.

14 I declare under penalty of perjury under the laws of the United States that the  
15 foregoing is true and correct.

16 Executed this 12th day of April 2016, at San Francisco, California.

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19 PATRICIA A. MEAGHER  
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**PROOF OF SERVICE**  
**[FRCivP 5(b)]**

I, Lisa Herico, state: My business address is 311 California Street, 10th Floor, San Francisco, CA 94104. The electronic notification address from which I served the documents listed below is: [fyh@rjo.com](mailto:fyh@rjo.com). I am employed in the City and County of San Francisco where this service occurs or mailing occurred.

I hereby certify that on April 12, 2016 I electronically filed the foregoing document with the United States District Court for the Southern District of California by using the CM/ECF system.

**DECLARATION OF PATRICIA A. MEAGHER IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL OF RECORD**

I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system:

**NAMES AND ADDRESSES OF PARTIES SERVED**

Murray M. Helm, Jr. Law Offices of Murray M. Helm, Jr. 550 West "C" Street, Suite 1155 San Diego, California 92101	Attorneys for Plaintiff Hudson P. Davis, Inc., dba Davis Mechanical Systems Tel. No.: (619) 234-6744; Fax No.: (619) 234-6860 E-mail:
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Michael J. Timpane SALAMIRAD, MORROW, TIMPANE MORROW, TIMPANE 1999 Harrison Street, Suite 660 Oakland, California 94612-3584	Attorneys for Defendant Travelers Casualty and Surety Company of America Tel: (510) 907-3245; Fax: (510) 285-6052 E-mail: <a href="mailto:mt@smtlaw.com">mt@smtlaw.com</a>
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I further certify that on April 12, 2016, I served a copy of the foregoing document to

K.O.O. Construction Inc.  
**Attention:** Keith O. Odister  
 2510 Boatman Avenue  
 West Sacramento, CA 95691  
 E-mail: [kodister@kooconstruction.com](mailto:kodister@kooconstruction.com)

by:

X **BY OVERNIGHT DELIVERY:** On April 12, 2016, I caused such envelope to be delivered by a commercial carrier service (Federal Express) for overnight delivery to the office(s) of the addressee(s).

X **BY ELECTRONIC SERVICE:** On April 12, 2016, I caused the document to be sent to the person at the electronic notification address(es) listed above. Within a reasonable time, the transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this date at San Francisco, California.

Dated: April 12, 2016

  
 \_\_\_\_\_  
 Lisa Herico